IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.2559 OF 2002

Samadhan Prathamik Marathi Vidyalaya)
Samadhannagar, Akkalkot Road, run by)
Hindustani Islamic Magaswargiya)
Shikshan Sanstha, Solapur through its)
Secretary Shaikh Haji Mehboob Raja Saheb).. Petitioner

Versus

1) State of Maharashtra, Mumbai.)

2) Secretary, School Education Dept.)
Mantralaya, Maharashtra State)
Mumbai 400 032.)

3) Education Director)
Education Directorate)
Maharashtra State, Pune-1.)

4) Divisional Education)
Dy. Director, Pune Region, Pune.)

5) Education Officer (Primary))
Solapur Z.P., Solapur.).. Respondents

Mr.Vishwas S.Deokar for the Petitioner.

Mr.S.R.Sonawane, A.G.P., for Respondent Nos.1 to 4.

Mr.S.V.Likhate h/f Mr.Nitin Jamdar for Respondent No.5.

CORAM : H.L. GOKHALE AND
SMT.NISHITA MHATRE, JJ.

DATE : 9TH SEPTEMBER 2004

ORAL JUDGMENT : (PER GOKHALE, J.)

1. Heard Mr.Deokar for the Petitioner Institution. Mr.Sonawane appears for Respondent Nos.1 to 4.

2. The Petitioner Institution is running a private school at Solapur. This school started in the year 1994-95 and over the years in annual growth certain

divisions of the higher standards came to be established. Apart from the divisions of the higher standards which increased in this natural manner, it also established some additional divisions particularly of the 6th standard and 7th standard in the year 1999-2000 and 2000-2001. As far as the first four standards of this school are concerned, over the years it is being given the grants. As far as the naturally added 5th and 6th standard classes are concerned, the concerned authorities of the Government held them to be eligible to receive grants from 2000-2001. The Petitioner Institution is aggrieved by that decision dated 13th December 2001 and it is the case of the Petitioner Institution that these grants ought to be granted to the natural divisions from 1998-1999 onwards. Apart from this submission with respect to the naturally grown divisions, as far as additional divisions are concerned also it is submitted that there is justification to give grants which admittedly are not cleared by the Government.

3. The Petition is therefore filed to challenge this decision dated 13th December 2001 to the extent it approves the grants only from 2000-2001 and not from 1998-1999. A Mandamus is sought that this grant be cleared from 1998-1999.

4. An affidavit in reply has been filed by an officer from the office of the Deputy Director of

Education and therein it is pointed out as to what is the scheme of releasing the grants. In this reply, amongst other things it is stated in paragraph 7 that as far as the standards 5th to 7th are concerned, grants are to be given only after completing five years from the date of sanctioning the divisions to the Petitioner Institution. Mr.Sonawane, learned A.G.P. appearing for Respondent Nos.1 to 4, has also drawn our attention to the Government Resolution of 8th November 2000 to which there is an enclosure which includes the various expectations from such schools. This Government Resolution amongst others states in clause 2.3. that as far as attendance is concerned, a scrutiny of the school will be done. The yardstick is having the average attendance as provided in the Government Resolution plus the school must get certain number of marks (which should be 75% and above) on the basis of the analysis done as per the enclosure to this Government Resolution.

5. Mr.Deokar, learned Counsel for the Petitioner, submitted that the school was fulfilling all the requirements and, therefore, the concerned officer was in error in granting the aid only from the year 2000-2001 and he ought to have been granted from 1998-1999. As against that, as stated above, Mr.Sonawane has pointed out that the necessary expectations are not fulfilled. That apart what we find is that there is an element of scrutiny as per this Government Resolution which the concerned office has to

do. In these circumstances, in our view, it will not be proper for us to issue a Mandamus to the concerned officer. The better course will be that the Petitioner files a comprehensive representation to the Deputy Director of Education, Pune Region, wherein it sets out its claim for these grants from 1998-1999 onwards. The necessary representation will be filed within two weeks from today. On receiving the representation and on hearing the office bearers of the Petitioner Institution, the Deputy Director will arrive at his decision on merits within twelve weeks independent of the decision dated 13th December 2001 challenged herein. However, all that we expect is that the officer will pass a speaking order giving reasons as to why the grants are being granted or they are not being granted if he decides to decline the same. It will be open to the concerned officer to visit the school and make all necessary enquiries.

6. Petition disposed of in these terms. No order as to costs.

7. All parties will act on authenticated copy of this judgment.

(H.L. GOKHALE, J.)

(SMT.NISHITA MHATRE, J.)